Howard 404; *Boston Electric Co.* v. *Electric Gas Lighting Co.*, 23 Fed. 839; *U. S.* v. *American Bell Tel. Co.*, 29 Fed. 17. Under the act of 1887, however, the Supreme Court holds in *Shaw* v. *Mining Co.*, 145 U. S. 444, on which the present decision is based, that a corporation of one state is not an inhabitant or resident of another state in which it has a usual place of business. A contrary view is taken in *U. S.* v. *Southern Pac. R. Co.* (C. C.) 49 Fed. 297.

EQUITY—RIGHT TO INVOKE JURISDICTION—PROTECTION OF CONTRACTS ARISING OUT OF UNLAWFUL COMBINATION.—DELAWARE L. & W. R. Co. v. FRANK, 110 Fed. 689 (N. Y.).—The plaintiff asked for an injunction to enjoin ticket brokers from dealing in special tickets which were untransferable. It appeared that the plaintiff was a member of a combination formed by a number of railroads for the purpose of preventing competition, the passenger receipts of all such railroads being pooled and divided on an agreed basis. *Held,* that complainant was not entitled to equitable relief.

The combination formed by the railroads, being in violation of the federal anti-trust law, was illegal. A federal tribunal cannot be invoked to protect the issuance of a ticket which is the evidence of an agreement between railroad corporations specifically forbidden by an act of Congress, which has been sustained by the Supreme Court. *U. S.* v. *Trans-Missouri Freight Association,* 166 U. S. 290, 17 Sup. Ct. 540; *U. S.* v. *Joint Traffic Association,* 171 U. S. 505, 19 Sup. Ct. 25. The complainant contended that the unlawful acts charged by the defendant did not relate to the subject matter. The court, however, held that the wrongdoing of the complainant was not remote, in that it had given birth to the combination whose tickets were wrongfully diverted by the defendant.

FOREIGN DIVORCE—SUBSTITUTED SERVICE—DOWER—BAR.—STARBUCK v. STARBUCK ET AL., 71 N. Y. Sup. 194.—Plaintiff, a resident of Massachusetts, obtained in that state a divorce from her husband, a resident of New York, who was served personally but who did not appear in the action. Although the husband married a second time, at his death in 1896, plaintiff brought action for dower. *Held,* that the Massachusetts decree was not binding on plaintiff in New York and hence did not bar her right to dower in husband's lands in that state.

This decision follows naturally from the strict attitude of the New York courts upon the question of foreign divorces. *Todd* v. *Kerr,* 42 Barb. 317; *Van Cleaf* v. *Burns,* 133 N. Y. 540; *In re Kimball,* 155 N. Y. 62. The court holds that the plaintiff by this action of dower, strictly speaking, does not question the validity of her divorce, but only maintains that its validity is confined to the jurisdiction granting it. This conclusion, however, is just the reverse of that reached in *In re Swales Estate,* 70 N.Y. Supp. 220, that where a party has invoked and submitted himself to the jurisdiction of any court, he cannot therefore be heard to question such jurisdiction. The weight of authority in this country is that such a decree dissolves the marriage relation and bars the right to dower. *Atherton* v. *Atherton,* 181 U. S. 155.

FRAUDULENT CONVEYANCES—PROMISE IN CONSIDERATION OF MARRIAGE—MARTIAL RIGHTS.—BRINKLEY v. BRINKLEY ET AL., 39 S. E., 38 (N. C.).—Where the defendant agreed to deed land to the plaintiff if she would marry

him, and after her promise to do so, but before marriage conveyed the land without consideration to his children by a former wife, such conveyance, though recorded before the marriage, was fraudulent and void as against a deed to plaintiff, made sixteen years subsequently. Clark, J., *dissenting.*

The above decision is rendered on the grounds that after an agreement to marry, a secret voluntary conveyance by one party is void, being in fraud of martial rights. *Poston* v. *Gillespie,* 58 N. C. 258; *Brown* v. *Bronson,* 35 Mich. 415; *Palmer* v. *Neave,* 11 Ves. 165. The minority opinion, however, is well supported by authorities. It seems well settled that a postnuptial settlement in pursuance of an antinuptial parol agreement is a voluntary conveyance. *Warden* v. *Jones,* 23 Beav. 487; *Trowell* v. *Shenton,* 8 Ch. Div. 318 (Eng.); *Reade* v. *Livingstone,* 3 Johnson Ch. (N. Y.) 481; *Smith* v. *Greer,* 3 Humphrey (Tenn.) 118. Decisions in the United States go still further, and are almost unanimous in holding that a voluntary conveyance is valid as against subsequent purchasers with notice. *Chaffin* v. *Kimball,* 23 Ill. 36; *Jackson* v. *Tower,* 4 Cow. (N. Y.) 599; *Lancaster* v. *Dolan,* 1 Rawle (Pa.) 231.

INSURANCE—POLICY—CONSTRUCTION—TOTAL LOSS.—DEVITT V. PROVIDENCE-WASHINGTON INS. CO., 70 N. Y. Supp. 654.—Defendant insured a cargo of produce "free of particular average." The boat was sunk, but part of cargo was saved and sent to port of destination in a damaged condition where, on sale, it brought only one-fourth of whole value when insured. *Held,* to be a constructive total loss for which insurer was liable.

The tendency of both American and English courts seems to be away from the theory that there must be a physical destruction or loss of identity of memorandum articles to constitute a total loss. The modern English rule reversing the position of the early case of *Cocking* v. *Frazer,* 4 Doug. 259, holds insurers liable for a total loss of value although articles remain in specie. *Rosetto* v. *Gurney,* 11 C. B. 186. The principal case following *Wallerstein* v. *Ins. Co.,* 44 N. Y. 204, goes even further by holding that the American rule that a damage exceeding fifty per cent. constitutes a constructive total loss, applies to memorandum articles. In *Kettle* v. *Ins. Co.,* 10 Gray 144, the Massachusetts court refused to decide the point, although expressing its opinion that the fifty per cent. rule ought to apply. To the same conclusion is *Poole* v. *Ins. Co.,* 14 Conn. 47. Yet the ruling of *Wallerstein* v. *Ins. Co.* was hardly in line with the early New York decisions; *Leroy* v. *Gouvernuer,* 1 Johns. 226; *DePeyster* v. *Ins. Co.,* 19 N. Y. 272; and does not seem since to have been regarded as controlling. *Carr* v. *Ins. Co.,* 109 N. Y. 504. The U. S. Supreme Court in a recent case holds a contrary rule that the exception of particular average upon memorandum articles excludes a constructive total loss. *Washburn Mfg. Co.* v. *Ins. Co.,* 179 U. S. 1.

INTERSTATE COMMERCE — STATE LEGISLATION, AFFECTING — PROHIBITING SALE OF GAME OR FISH.—IN RE DEININGER, 108 Fed. 623.—Game laws of Oregon make it a penal offense for a person to have trout in his possession for sale. *Held,* to be a valid police regulation and not an unlawful interference with interstate commerce, although such trout are brought from another state, where they are lawfully caught.